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Michael L. Asmussen

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EXAMINER

NEWLIN, TIMOTHY R

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/609,316	<b>Applicant(s)</b> ASMUSSEN, MICHAEL L.	
	<b>Examiner</b> Timothy R. Newlin	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 106, 108-115 and 117-123 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 106, 108-115 and 117-123 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that De Weese teaches only 2 of the 3 signals the Applicant asserts are required by claim 1. Specifically, it is alleged that DeWeese lacks an upstream non-video signal. However, as stated in the previous action,

DeWeese teaches two-way (i.e. upstream and downstream) communication of non-video data—including chat text, chat requests, and chat group information, between subscriber terminals and chat servers (e.g., paras. 56 and 57; Figs. 2A-B, paras. 71-73)...The [upstream non-video data] is not merely a form of visual communication between users, but is meta-data with specific functions, such as identifying subscribers that belong to a given chat group and implementing a chat request protocol between users (paras. 72 and 73). This data is not merely "forms of upstream communication" as asserted by applicant, but is independent non-video data.

This upstream metadata is not A/V data, but rather a distinct data stream, i.e. data file used to initiate chat protocol etc. It is an upstream non-video a data file, and accordingly meets claims 106, 115 and 120.

Also, the "text stream" is non-video data (Fig. 16) that is multiplexed with the video of the user. Whether the non-video stream is "associated with the chatting" is not determinative. In fact, applicant's specification and claim makes clear that the claimed "non-video" data would likely be related to the concurrent A/V chat data. E.g., a user could send a copy of a file that is being currently discussed via chat.

The multiplexing of the upstream A/V data and the upstream non-video data is met by DeWeese as stated in the rejection and the previous action:

Although DeWeese does not provide details regarding the combination or multiplexing of signals, he does explicitly state that the non-video communications are carried on the same coaxial cable as the video signals themselves (see para. 14). Thus, in order to carry the different signals on the same medium, they are necessarily multiplexed by, for example, TDMA or FDM techniques as stated in the previous action. Since the chat data flows in two directions, DeWeese reads on both upstream or downstream multiplexing.

DeWeese thereby teaches a second upstream, non-video data signal, multiplexed with upstream A/V signal, and the rejections are maintained accordingly.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 106, 108-110, 112-115, 117, 118, and 120-123 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,999,207 to Rodriguez et al. (Rodriguez) in view of U.S. Patent 5,990,927 to Hendricks et al. (hereafter Hendricks), U.S. Patent Application Publication 2001/0013021 to Saito, and U.S. Patent Application Publication 2005/0262542 to DeWeese et al. (DeWeese).

Regarding claims 106, 115, 120, Rodriguez teaches an apparatus for upgrading a capability of a set top terminal (STT) (see fig. 20 - STB with videophone), wherein the STT is adapted to receive television program signals over a cable television program delivery system (col. 6, ll. 24-38, col. 9, ll. 28-30). Rodriguez teaches the apparatus preparing the upstream communication signal for transmission over a transmission network of the cable television program delivery system and providing the television program and a video of the downstream communication signal for simultaneous display of the television program and the video on the display device (col. 6, ll. 14-38, col. 9, ll. 15-36).

Whereas Rodriguez teaches a STT interface (fig. 20, external connection between videophone and STT), Rodriguez is silent on the STT receiving a data stream

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including a plurality of compressed television program signals, wherein the STT includes a first decryption module for decrypting a television program signal.

Hendricks teaches a STT receiving a data stream including a plurality of compressed program signals, decompressing the program signal, and providing a corresponding output signal adapted for use by a display device (col. 10, ll. 48-58), wherein the STT includes a first decryption module for decrypting a television program signal (fig. 14, label 600, 600'). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rodriguez by including a STT receiving a data stream including a plurality of compressed television program signals, wherein the STT includes a first decryption module for decrypting a television program signal as taught by Hendricks in order to reduce the bandwidth of the television signal and protecting the content to prevent unauthorized users from viewing programming.

Rodriguez teaches the use of a video telephone device connected with a STT (fig. 20) for providing upstream and downstream communication signals, and providing a compressed downstream signal which is decoded using the DSP, but is silent on decrypting an encrypted downstream communication signal, wherein the downstream encrypted communication signal is a second encryption format for a combined audio and video, and encrypting an upstream communication signal comprising audio and video data.

Saito teaches decrypting an encrypted downstream communication signal, wherein the downstream encrypted communication signal is a second encryption

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format for a combined audio and video, and encrypting an upstream communication signal comprising audio and video data (pg. 16, para. 0322, 0324). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rodriguez by decrypting an encrypted downstream communication signal, wherein the downstream encrypted communication is signal is a second encryption format for a combined audio and video, and encrypting an upstream communication signal comprising audio and video data as taught by Saito in order to securely transmit data between remote users, while preventing unauthorized users from seeing the contents of the video conference.

Rodriguez teaches simultaneously displaying non-video data in the form of graphics with the television program and the video on the display device, wherein the graphic is generated local to the device, but is silent on a means for multiplexing and receiving a non-video data signal with the downstream communication signal, wherein a non-video data signal comprises at least one of: an electronic book, data file, document, spreadsheet, graphic, program, text stream, web page, or interactive whiteboard.

In analogous art, DeWeese teaches simultaneously displaying non-video data in the form of graphics with the television program and the video on the display device (pg. 11, para. 0120) wherein non-video data is in the form of text chat groups, where the subscriber text reads on a text stream, along with multiplexing and receiving a non-video data signal with the upstream communication signal (fig. 10, 17, pg. 11, para. 0120 – since the upstream communication is over the same medium (cable) as the

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downstream signal, the upstream signal is inherently multiplexed (using at least TDMA or FDM techniques) see pg. 1-2, para. 0014).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rodriguez by multiplexing a non-video data signal with the upstream communication signal, wherein a non-video data signal comprises at least a text stream as taught by DeWeese in order to engage users to communicate in real-time with users watching the same television program (DeWeese: pg. 1-2, para. 0013-0014).

Regarding claims 108 and 117, the combination of Rodriguez and Hendricks has been discussed above. Hendricks teaches a first encryption format comprising a video encryption format (fig. 14, label 600, 600').

Regarding claims 109 and 118, the combination of Rodriguez and Hendricks has been discussed above. Hendricks teaches a channel decoder (fig. 12b, label 134, 606'), a demultiplexer (fig. 12b, label 138) for coupling a compressed downstream communication signal to the upgrade module (Rodriguez: col. 9, ll. 24-36).

Regarding claim 110, Rodriguez teaches a video decompressor for decompressing the compressed downstream communication signal provided by said upgrade decryption module (col. 7, ll. 17-35, col. 7, ll. 41-59).



Regarding claim 112, Rodriguez teaches an upgrade processor for communication with the first processor via the STT interface, the upgrade processor controlling the upgrade module (col. 7, ll. 41-59, col. 9, ll. 15-47).

Regarding claim 113, Rodriguez teaches providing user interface menu via the STT (fig. 1, 3-10).

Regarding claim 114, Rodriguez teaches the upgrade apparatus providing user interface menu imagery via a visual display to the user (fig. 1, 3-10).

Regarding claims 121-123, Rodriguez teaches simultaneous display in a picture-in-picture format (col. 6, ll.23-25)

3. Claims 111 and 119 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,999,207 to Rodriguez et al. (Rodriguez), U.S. Patent 5,990,927 to Hendricks et al. (hereafter Hendricks), U.S. Patent Application Publication 2001/0013021 to Saito, and U.S. Patent Application Publication 2005/0262542 to DeWeese et al. (DeWeese) in view of U.S. Patent 5,867,223 to Schindler et al. (Schindler).

Regarding claims 111 and 119, Rodriguez teaches providing the communication signals to the videophone, but is silent on a demultiplexer. Hendricks teaches a

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demultiplexer (fig. 12b, label 138), for extracting an encrypted data stream for the demodulated data stream (as shown by the logical order elements), and the encrypted data stream coupled to said upgrade decryption module, as shown in figure 12b, see also col. 27, ll. 45-60. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rodriguez by using a demultiplexer as taught by Hendricks in order to provide the communication signals received via a common path to the appropriate device, thereby providing the videophone with the desired packets.

Rodriguez teaches decoding each of the audio and video signals, but is silent on synchronizing the signals. Official Notice is taken that synchronizing audio and video signals is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks, Rodriguez, Saito, and Schindler by synchronizing the signals in order to accurately present and coordinate the conference content.

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Newlin whose telephone number is (571) 270-3015. The examiner can normally be reached on M-F, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
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Unit 2424

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